

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

ANDREW THREATT,

Petitioner,

File No. 2:10-CV-45

v.

HON. ROBERT HOLMES BELL

ROBERT NAPEL,

Respondent.

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**MEMORANDUM OPINION AND ORDER  
ADOPTING THE REPORT AND RECOMMENDATION**

This matter is before the Court on a habeas corpus petition filed pursuant to 28 U.S.C. § 2254 by Petitioner Andrew Threatt. (Dkt. No. 1.) On April 20, 2010, the Magistrate Judge issued a Report and Recommendation (“R&R”) recommending that this Court deny the petition. (Dkt. No. 5.) On May 14, 2010, Petitioner filed a notice of appeal to the Court of Appeals of the Sixth Circuit (Dkt. No. 6), and a motion for extension of time to file objections to the R&R (Dkt. No. 7). Magistrate Judge Timothy P. Greeley granted the motion for extension of time, giving Petitioner until June 18, 2010, to file objections. (Dkt. No. 9.) Magistrate Judge Greeley also entered a deficiency order with respect to Petitioner’s notice of appeal, notifying Petitioner that he must pay the filing fee to the district court, or apply to proceed *in forma pauperis*. (Dkt. No. 8.) The deadline for filing objections has passed and Petitioner has not filed objections to the R&R.

The R&R determined that Petitioner's habeas petition should be denied because it is untimely. (R&R 5.) The Court has reviewed the R&R and agrees with its conclusions. The R&R also notified Petitioner of his opportunity to present the Court with reasons for considering his petition on the basis of equitable tolling. (R&R 6.) Petitioner has not done so. Therefore, the Court will adopt the conclusions of the R&R and deny Petitioner's petition because it is barred by the statute of limitations.

Pursuant to 28 U.S.C. § 2253(c), the Court must also assess whether to issue a certificate of appealability. To warrant a grant of a certificate of appealability, Petitioner "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The Court does not believe that reasonable jurists would find its assessment of the statutory bar to Petitioner's habeas petition to be debatable or wrong. Moreover, by failing to file objections to the R&R, Petitioner has waived appellate review of his claims. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *see Thomas v. Arn*, 474 U.S. 140 (1985). Therefore, a certificate of appealability will be denied as to all of Petitioner's claims.

Accordingly,

**IT IS HEREBY ORDERED** that the Report and Recommendation (Dkt. No. 5) is **APPROVED** and **ADOPTED** as the opinion of the Court.

**IT IS FURTHER ORDERED** that Petitioner's petition for writ of habeas corpus (Dkt. No. 1) is **DENIED**.

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED** as to all of Petitioner's claims in his habeas petition.

A judgment will be entered that is consistent with this memorandum opinion and order.

Dated: June 25, 2010

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE